

According to M.P.E.P. §1893.03(d), when making a lack of unity of invention requirement, the Examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group. Applicants submit that the Examiner has failed to specifically describe the unique special technical feature in each group to explain why each group lacks unity with each other group, as specified in requirement (2) above. Instead, the Examiner merely states that “the two groups are different – both lacking overlap in scope and lacking as obvious variants”. Applicant submits that such a general statement fails to comply with the “specifically describing” requirement set forth in M.P.E.P. §1893.03(d).

M.P.E.P. §1893.03(d) also specifies that a group of inventions will be considered to be linked to form a single inventive concept where there is a technical relationship among the inventions that involves at least one common corresponding special technical feature. In this regard, claim 1 (i.e., identified by the Examiner as being to non-elected Group I) and independent claim 9 (identified by the Examiner as belonging to Group II, elected herein by Applicant) are the sole independent claims.

Non-elected claim 1 specifies a light-collecting device which collects incident light, comprising:

a substrate into which the incident light is incident; and

above said substrate, a plurality of light-transmitting films formed in a region into which the incident light is incident,

wherein said light-transmitting film forms a zone in which a width of each zone is equal to or shorter than a wavelength of the incident light,

each zone shares a center point which is located at a position displaced from the center of said device, and

the plurality of said light-transmitting films form an effective refractive index distribution.

Claim 9 (i.e., elected Group II) specifies a solid-state imaging apparatus comprising arranged unit pixels, each of which includes a respective light-collecting device,

wherein said light-collecting device comprises:

a substrate into which the incident light is incident; and

above said substrate, a plurality of light-transmitting films formed in a region into which the incident light is incident,

wherein said light-transmitting film forms a zone in which a width of each zone is equal to or shorter than a wavelength of the incident light,

each zone shares a center point which is located at a position displaced from the center of said device, and

the plurality of said light-transmitting films form an effective refractive index distribution.

Thus, Applicant submits that an examination of claims 1 and 9 shows that all of the elements specified for the light-collecting device defined by elected claim 9 are also included in the light-collecting device defined by non-elected claim 1. Thus, Applicant submits that the claims of elected Group II (e.g., claims 9-15) and non-elected Group I (e.g., claims 1-8) are linked to form a single inventive concept, as there is a technical relationship among the inventions that involves at least one common corresponding special technical feature.

In view of the above, Applicant submits that all the claims in the application are linked to form a single inventive concept, and thus, all the claims should be examined. Thus, Applicant respectfully requests that the Examiner withdraw the restriction requirement and examine all the pending claims.

Applicant further notes that it does not appear that a restriction was set forth in International Application No. PCT/JP2004/018746, which was the International Application from which the present National Stage application is based. Accordingly, Applicant submits that at least one International Examiner considered the issue of lack of unity and concluded that the claims are so linked as to form a single inventive concept. Accordingly, Applicant submits that an additional ground exists for concluding that the restriction requirement should be withdrawn.

For all of the foregoing reasons, Applicant respectfully requests the restriction requirement be reconsidered and withdrawn. Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully Submitted,
Kimiaki TOSHIKIYO



Bruce H. Bernstein
Reg. No. 29027

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191

Steven Wegman
Reg. No. 31,438